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DATE: August 31, 1992
CASE NO. 90-ERA-44

FREDERICK E. McCUISTION,

COMPLAINANT,

v.

TENNESSEE VALLEY AUTHORITY,

RESPONDENT.

BEFORE: THE SECRETARY OF LABOR

ORDER APPROVING SETTLEMENT AND
DISMISSING COMPLAINT WITH PREJUDICE

This case arises under the employee protection provision of the Energy Reorganization Act of 1974, as amended (ERA), 42 U.S.C. § 5851 (1988). Complainant waived the statutory deadline for a final order by the Secretary.

The parties submitted a Memorandum of Understanding and Agreement, dated July 28, 1992, indicating that Complainant agreed to a settlement of his complaint against the TVA and sought dismissal of the complaint with prejudice. Because this request for dismissal is based on an agreement entered into by the parties, I must review it to determine whether the terms are a fair, adequate, and reasonable settlement of the complaint. 42 U.S.C. § 5851(b)(2)(A); *Macktal v. Secretary of Labor*, 923 F.2d 1150, 1153-54 (5th Cir. 1991); *Thompson v. United States Department of Labor*, 885 F.2d 551, 556 (9th Cir. 1989); *Fuchko and Yunker v. Georgia Power Co.*, Case Nos. 89-ERA-9, 89-ERA-10, Sec. Order, Mar. 23, 1989, slip op. at 1-2.

This settlement agreement may encompass matters arising under various laws only one of which is the ERA. As my authority over settlement agreements is limited to such statutes as are within my jurisdiction and is defined by the applicable statute, see *Goese v. Ebasco Services, Inc.*, Case No. 88-ERA-25, Sec. Order Approving Settlement and Dismissing Case, Dec. 8, 1988; *Poulos v. Ambassador Fuel Oil Co., Inc.*, Case No. 86-CAA-1, Sec.

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Order, Nov. 2, 1987, and cases cited therein, I have limited my

review to determining whether the terms of the agreement are fair, adequate, and reasonable to settle Complainant's allegation that Respondent violated the ERA.

Upon review of the terms of the agreement and the record in this case, I find that the agreement is fair, adequate and reasonable, and therefore, I approve the agreement. [1] Accordingly, this case is DISMISSED with prejudice, as requested.

SO ORDERED.

LYNN MARTIN
Secretary of Labor

Washington, D.C.

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[ENDNOTES]

[1] Paragraph 5 provides for confidentiality of the terms of Complainant's awards, except with family and attorney, and as required by legal process. I note that the parties' submissions become part of the record in the case and that the Freedom of Information Act, 5 U.S.C. § 552 (1988), requires federal agencies to disclose requested records unless they are exempt from disclosure under the Act. See *Hamka v. The Detroit Edison Co.*, Case No. 88-ERA-26, Sec. Order to Submit Attachments, Dec. 9, 1991, slip op. at 2, n.1.